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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 125 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

JYOTI SWITCHGEARS LTD.

Appearance:

1. INCOME TAX REFERENCE No. 125 of 1987

MR BB NAIK with MR MR BHATT for Petitioner No. 1

MR MJ SHAH for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 04/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the reference, the following question is referred for our opinion in respect of assessment year 1981-82 :-

"Whether, on the facts and in the circumstances of the case, the royalty payment of Rs.22,67,697/- to M/s Jyoti Limited is allowable in law as a revenue deduction ?"

2. We have heard Mr BB Naik, learned counsel for the revenue and Mr Manish J Shah, learned counsel for the respondent-assessee.

3. The learned counsel point out that the controversy raised herein is concluded in favour of the assessee by the decision dated 1.2.2000 of this Court in Income-tax Reference Nos. 250 and 389 of 1984 in case of this very assessee for assessment year 1979-80.

4. In view of the aforesaid decision, our answer to the question referred for our opinion is in the affirmative i.e. in favour of the assessee and against the revenue.

The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-